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Supreme Court, U.S.
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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

CHARLES FRENCH, RAYMOND THOMASSON, MARYDA COLOWICK, MARIAN L. STEVENSON, MARY L. CRAWLEY AND MARY JOHNSTON,

PETITIONERS,

v.

THE METROPOLITAN GOVERNMENT OF NASHVILLE, DAVIDSON COUNTY, TENNESSEE,

RESPONDENTS.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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QUESTION PRESENTED FOR REVIEW

MAY A CITY COUNCIL ELECTED IN AUGUST AND SEPTEMBER, 1991, UNDER A MALAPPORTIONED PLAN BASED ON 1980 CENSUS FIGURES, CONSTITUTIONALLY SERVE A FOUR YEAR TERM, UNTIL AUGUST 30, 1995, WHEN THE DIFFERENCE BETWEEN THE LARGEST COUNCILMANIC DISTRICT, WHICH CONTAINS 27,437 CITIZENS, AND THE SMALLEST COUNCILMANIC DISTRICT, WHICH CONTAINS 9,959 CITIZENS, IS 275%, AFTER A PROPERLY APPORTIONED PLAN WAS PREPARED AND ADOPTED ON SEPTEMBER 5, 1991?

LIST OF PARTIES

PLAINTIFFS-APPELLANTS:

Charles French, Raymond Thomasson, Maryda Colowick, Marian L. Stevenson, Mary L. Crawley

INTERVENING PLAINTIFF-APPELLANT:

Mary Johnston

DEFENDANT-APPELLEE:

Metropolitan Government of Nashville, Davidson County, Tennessee

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JURISDICTION

Plaintiffs appeal from the judgment of the Sixth Circuit Court of Appeals entered on May 8, 1992. Plaintiffs' Petition for Rehearing was denied by the Sixth Circuit on June 9, 1992. Jurisdiction is pursuant to 28 U.S.C. § 1254.

APPLICABLE CONSTITUTIONAL AND STATUTORIAL PROVISIONS

SECTION ONE, FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION:

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall

abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. § 1983:

CIVIL ACTION FOR DEPRIVATION OF RIGHTS

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws,

shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE

On April 24, 1991, Plaintiffs/Appellants filed a complaint (Docket Entry No. 1, Complaint)[1] against various elected and appointed officials of Metropolitan Nashville and Davidson County, Tennessee, the Davidson County

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[1] All references to the docket will hereinafter be as D. ___. References to material contained in the Appendix will be given as App. p. ___.

Election Commission, the Metropolitan Council, and the Metropolitan Planning Commission. This action was brought pursuant to 42 U.S.C. §§ 1971, 1973, 1983, and 1988 to address the denial, under the color of state law and/or customs or practices, of rights, privileges and immunities secured to the Plaintiffs by said laws and by the Fourteenth and Fifteenth Amendments to the United States Constitution. Plaintiffs sought injunctive relief in order to postpone the August 1, 1991 election until Metro redistricted itself or other appropriate relief. A show cause hearing was set for May 6, 1991.

The District Court signed an agreed order, (D. 5), on April 30, 1991 substituting the Metropolitan Government of Nashville, Davidson County, Tennessee

for all the Defendants. On May 3, 1991, the show cause hearing was continued until May 20, 1991. (D. 7).

Also on May 3, 1991, Plaintiffs filed a First Amended Complaint. (D. 6). This amended complaint added new plaintiffs to the action, made new allegations concerning a redistricting plan submitted to the Metropolitan Council by the Metropolitan Planning Commission and sought the relief as prayed for in the original complaint.

On May 10, 1991, Metro moved to dismiss the action pursuant to Rules 12 (b)(1) and (b)(6), F.R.C.P., (D. 10), on the basis that Plaintiffs action was not ripe and therefore the District Court lacked subject matter jurisdiction; and also on the basis that Plaintiff's complaint failed to state a claim upon which relief

could be granted.

The show cause hearing was held on May 22, 1991. At this hearing, stipulations were filed, exhibits were introduced and two employees of the Metropolitan Planning Commission and Plaintiff French testified. At the conclusion of the testimony, the court adjourned for oral argument at a later date. On June 5, 1991, oral argument was heard on Defendant's Motion to Dismiss and Plaintiffs' show cause hearing. At the conclusion of oral argument, the District Court took the matter under advisement.

The District Court, on June 27, 1991, granted Defendant's Motion to Dismiss, in accordance with a memorandum contemporaneously entered. French v. Boner, 771 F.Supp. 896 (M.D.Tenn. 1991).(App. p. 45). The District Court

found that the matter was not ripe for adjudication and therefore it lacked subject matter jurisdiction, and an Order of Dismissal was entered. Id.

Plaintiffs filed a Notice of Appeal to the Sixth Circuit Court of Appeals (D. 44) on June 28, 1991 and Moved for an Expedited Determination in that Court on July 1, 1991. The Sixth Circuit heard oral argument in this matter on July 18, 1991 and, ruling from the bench, mandated this cause back to the District Court. French v. Boner, 940 F.2d 659 (6th Cir. 1991)(unreported disposition)(App. p. 39).

In its mandate, the Sixth Circuit affirmed the decision of the District Court in refusing to enjoin the August 1, 1991 Councilmanic elections in Metro. (D. 49). The Sixth Circuit reversed the District Court's decision to dismiss the

lawsuit on the basis of ripeness and remanded the case to the District Court for consideration of the remaining issues which the Sixth Circuit found to be:

> (1) the constitutionality of the apportionment plan proposed by the Metropolitan Planning Commission under § 18.06 of the Metropolitan Charter or any alternative plan that may be enacted under § 18.06 of the Metropolitan Charter at the September 5, 1991 referendum, and
>
> (2) whether Metropolitan Nashville, Davidson County may wait until 1995 to hold the next election of council members once a valid reapportionment plan has been established.

(D. 49, App. p. 44).

Upon remand, the Defendant filed an answer. (D. 46). In its answer at Paragraph 23, Metro admits that "population imbalances exist at the end of the decennial period in the thirty-five single member districts of the Metropolitan Council." (D. 46). Metro

further avers that Exhibit B to the complaint speaks for itself. Exhibit B reveals the wide disparities present in the existing council.[2] The largest district has roughly three times the population of the smallest district.

The parties also agreed to a number of stipulations dealing with the Council elections under the redistricting plan using 1980 census figures and events leading to the adoption of the 1991

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[2]. The total population of Metro according to the 1990 census is 510,784, making the ideal district population 14,494. (D. 51, Stipulations, Collective Exhibit BB). The largest district in which the 1991 elections were held was District Thirteen with a population of 27,439. (D. 23, Stipulations, Exhibit B). The smallest such district was District Seventeen with a population of 9,959. (D. 23, Stipulations, Exhibit B). The difference between these two districts is 275%. This figure is well above the maximum deviation ever allowed by the Supreme Court. See, Board of Estimate of New York v. Morris, 489 U.S., 109 S.Ct., 103 L.Ed.2d 717 (1989).

redistricting plan. The parties stipulated that on August 1, 1991, an election was held to select a Metropolitan Council member from each of the thirty-five single-member districts of the Metropolitan Council. (D. 51). The redistricting plan which was utilized for this election was based on 1980 census figures. (D. 51). A run-off election was held on September 5, 1991, also based on the 1980 census figures, to elect those members of the Metropolitan Council who failed to receive a majority of the votes cast in the August 1, 1991 election. (D. 51). The Members of the Metropolitan Council elected in 1991 have a term of four years pursuant to §3.02 of the Charter of the Metropolitan Government. (D. 51, Stipulations p. 3). Those members elected to the Council took their oaths of

office on September 4, 16 and 17, 1991. (D. 51).

On September 5, 1991, the redistricting plan prepared by the Metropolitan Planning Commission and the redistricting plan prepared by the Metropolitan Council appeared on the ballot. (D. 51). The voters of Davidson County approved the redistricting plan prepared by the Metropolitan Council and rejected the Planning Commission Plan. (D. 51). This plan will not be utilized until the 1995 Council elections, absent action by this Court.

The first meeting of the Metropolitan Council elected in August and September 1991 was held on September 17, 1991. (D. 51). As a result of the approval of the Council redistricting plan by the voters on September 5, 1991, the members of the

Metropolitan Council will conduct each meeting for the next four years knowing that the districts from which they where elected no longer exist[3].

Plaintiffs filed a Motion for Summary Judgment on the basis that the 1991 councilmanic elections were conducted under an admittedly malapportioned redistricting plan based on 1980 census figures in violation of the Fourteenth Amendment to the Constitution of the United States. (D. 54).

In response to Plaintiffs' Motion, the

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[3]. This is particularly acute in the Thirteenth District which is presently without representation in the sitting Council elected on the basis of the 1980 census figures. (D. 66, Affidavit of Charles French p. 2). The 13th District under the 1991 redistricting plan surrounds the Metropolitan Airport. (D. 51, Stipulations, Collective Exhibit BB p. 17-18). It is undisputed that the Airport is currently expanding and has generated a great amount of concern from the residents surrounding the Airport.

Defendant filed a Motion for Summary Judgment with supporting documents (D. 58) and a Response to Plaintiffs' Motion for Summary Judgment. (D. 57). Metro asserted that it was entitled to Summary Judgment because Plaintiffs were unable to show a violation of either the Fourteenth Amendment or the Voting Rights Act. Plaintiffs filed a Memorandum in Opposition to Defendant's Motion for Summary Judgment and also filed the Affidavit of Charles French. (D. 66). Upon oral argument of the Motions for Summary Judgment, both parties conceded in open Court that there were no material facts in dispute and that this matter was ripe for Summary Judgment. On March 2, 1992 the District Court granted the Defendant's Motion for Summary Judgment, denied Plaintiffs' Motion and dismissed

the action. (D. 73, App. p. 11).

Plaintiffs appealed and was granted an expedited Hearing on this Final Order to the Sixth Circuit Court of Appeals. (D. 74). In affirming the District Court's decision, the Sixth Circuit stated that:

> We conclude . . . that new elections are not required. In any system of representative government, it is inevitable that some elections for four-year or longer terms will occur on the cusp of the decennial census. The terms inevitably will last well into the next decade; and depending on shifts in population in the preceding decade, the representation may be unequal in the sense that the districts no longer meet a one-person-one-vote test under the new census.
>
> . . .
>
> We do not believe that considerations of mathematical equality in representation or the presumption in favor of redistricting every ten years outweigh the considerations . . . concerning the validity of four-year terms, the settled expectations of voters and elected officials, the costs of elections, and the need for stability and continuity of office.

French v. Boner, 963 F.2d 890, 891-892 (6th Cir. 1992)(App. p. 4-5, 9).

On May 22, 1992, Plaintiffs filed a Petition for Rehearing with the Sixth Circuit. Plaintiffs Petition was denied on June 9, 1992. (Order of June 9, 1992, App. p. 82). Plaintiffs now apply for a Writ of Certiorari to this Court.

ARGUMENT

In August and September, 1991 elections were held in Metropolitan Nashville, Davidson County using an apportionment plan based on 1980 census figures. These districts were so malapportioned according to the 1990 federal census that the difference between

the largest and the smallest district was 275%.

This Court has noted that "no case of ours has indicated that a deviation of some 78% could ever be justified" and that "at the very least, the local government seeking to support such a difference between electoral districts would bear a very difficult burden." Board of Estimate of New York v. Morris, 489 U.S. 688, 702, 109 S.Ct. 1433, 103 L.Ed.2d 717, 732 (1989).

More recently, this Court affirmed the three judge panel opinion of Watkins v. Mabus, 771 F.Supp. 789 (1991)(aff'd in part and vacated in part ___ U.S. ___, 112 S.Ct. 412 (1991) where the District Court ordered that imminent elections be held under the apportionment plan based on the 1980 census but that as soon as a plan was

adopted pursuant to the 1990 federal census, special elections were to be held.

Despite these cases, Plaintiffs' lawsuit was dismissed on a motion for summary judgment on the basis that the mere preparation of a reapportionment plan every ten years satisfies the Constitutional mandate even if the plan is not used until midway through the decade, in this case, 1995. In their respective opinions, both the District Court and the Sixth Circuit disregard the holdings of this Court since Baker v. Carr, 369 U.S. 474, 82 S.Ct. 691, 7 L.Ed.2d 663 (1963); Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964); and through the Board of Estimate and Watkins cases. It is indeed ironic that the District Court in which Baker arose would see fit to turn its back on its holding that each

and every citizen has an inalienable right to have his or her vote counted equally.

> [Reynolds v. Sims and its progeny] are based on the propositions that in this country the people govern themselves through their elected representatives and that "each and every citizen has an inalienable right to full and effective participation to full and effective participation in the political processes" of the legislative bodies of the Nation, State, or locality as the cases may be. Reynolds v. Sims, 377 U.S. at 565, 84 S.Ct. 1362, 12 L.Ed.2d 506. Since "[m]ost citizens can achieve this participation only as qualified voters through the election of legislators to represent them," full and effective participation requires "that each citizen have an equally effective voice in the election of members of his . . . legislature." Ibid. As Daniel Webster once said, "the right to choose a representative is every man's portion of sovereign power." Luther v. Borden, 7 How 1, 30, 12 L.Ed. 581 (1849)(statement of counsel). Electoral systems should strive to make each citizen's portion equal. If districts of widely unequal population elect an equal number of representatives, the voting power of each citizen in the larger constituencies in debased and the citizens in those districts have a

> smaller share of representation than do those in the smaller districts.

Board of Estimate v. Morris, 489 US 688, 693-94, 109 S.Ct. 1433, 103 L.Ed.2d 717, 727.

The Plaintiff/Appellants submit that the Court's decision in Watkins v. Mabus, 771 F.Supp. 789 (S.D.Miss. 1991)(three judge panel) aff'd in part, rev'd in part, 112 S.Ct. 412, 116 L.Ed.2d 433 (1991) is controlling here. There the Court upheld a decision to proceed with the 1991 Mississippi legislative elections under the 1982 redistricting plan, even though the districts under the 1982 redistricting plan are malapportioned according to the 1990 census, but ordered a special election once a valid redistricting plan was prepared.

In Watkins, the District Court was faced with the same situation presented in

this case. The Mississippi Legislature approved a redistricting plan in 1982 which was not objected to by the U.S. Attorney pursuant to the Voting Rights Act and became effective early in 1983. Id. at 791. The 1982 redistricting plan was utilized in the 1983 and 1987 legislative elections. Id. Following the 1990 decennial census it became apparent that the legislative districts were seriously malapportioned. Id. Accordingly, even though it was not required to, the Mississippi legislature redistricted itself in 1991 and submitted that plan to the U.S. Attorney for preclearance. Id. at 792. The U.S. Attorney interposed an objection to the redistricting plan. Id. Prior to the U.S. Attorney's objection to the plan, the plaintiffs had filed suit. Id. The plaintiffs sought injunctive and

other relief under §§ 2 and 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973, et seq., and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

As the Mississippi primary elections were scheduled for September 17, 1991, the district court expedited matters considerably. Following several status conferences, the submittal of briefs and oral argument the District Court ordered, inter alia, that: (1) the primary and general elections scheduled for September 17, 1991 and November 5, 1991 respectively, proceed under the 1982 redistricting plan; (2) that those persons elected pursuant to the 1991 legislative elections hold office "until their successors are elected under an apportionment plan which complies with the

Voting Rights Act and the United States and Mississippi Constitutions" with that plan being effected by a legislative plan precleared by the U.S. Attorney or three-judge court in the District of Columbia, or with a plan effected by the district court; and (3) that the court retain jurisdiction with a status conference set for March 2, 1992. Id. at 797.

In its opinion, the court stated:

> Accordingly, although the legislative districts under the 1982 plan are doubtless unconstitutionally malapportioned for a full four year term of office, this court, exercising its equitable powers, holds that under the facts in this case, including the imminent elections, they may be constitutionally utilized for interim relief.
>
> * * *
>
> We emphasize that, in declining to order a court-fashioned plan for use in the upcoming elections, this court is not abdicating its responsibility to enforce the provisions of the Voting Rights Act

> and the constitutional requirement of one-person, one-vote. Far from it. We have retained jurisdiction of this action. We would not consider - nor would the parties suggest - the use of the 1982 plan if we were implementing a permanent plan. However, this court has been presented with a range of untenable options; and we conclude that conducting elections under the existing plan is the lesser of the available evils.

Id. at 807 (emphasis added).

It is clear when one studies this Court's decisions concerning reapportionment beginning with Baker and Reynolds and continuing through Board of Estimate and the affirmance of Watkins that the inalienable right of each and every citizen to have ones vote counted equally takes precedence over all other considerations. In every situation in which the Court has been called upon to settle disputes involving the one-person, one-vote principle on the one hand and the

convenience of elected officials on the other, the Court has come down solidly in favor of the protection of the one-person, one-vote principle. The mere inclusion of this right with those other inalienable rights of "life, liberty, and the pursuit of happiness" is enough to put everyone on notice that this Court will not tolerate any action which seriously impinges on that right.

Despite this long and continuous protection of the inalienable right by this Court, both the District Court and the Sixth Circuit never discussed the fact that the difference between the largest and the smallest councilmanic district is 275%. Both the District Court and the Sixth Circuit felt that mathematical inequalities of one person, one vote, were outweighed by considerations such as cost,

continuity, and stability.

In its decision of May 8, 1992, the Sixth Circuit Court of Appeals affirmed the District Court's decision to grant Defendant's Motion for Summary Judgment. The Sixth Circuit concluded that new elections were not required because it is inevitable that there will be discrepancies between districts at the end of a decennial period and that the interests of mathematical equality were not as great as

> "considerations . . . concerning the validity of four-year terms, the settled expectations of voters and elected officials, the costs of elections, and the need for stability and continuity of office."

French v. Boner, 963 F.2d at 892 (App. p. 9).

The Sixth Circuit concluded that:

> We find no case authority contrary to this position and no law review or text material discussing

> the point at issue. In our representative democracy the courts are charged with the responsibility of keeping the channels of government and majority rule open and free from significant dilution of voting strength under the one-person-one-vote principle. See, John Hart Ely, Democracy and Distrust 121-15 (sic) (1980). Nevertheless, there must be some tolerance in the machinery of majority rule under the Equal Protection Clause in order to take into account the values outlined above [e.g. validity of four-year terms, settled expectations, costs of elections, and stability and continuity], as well as the practicalities of the local electoral processes established by states and cities for their own self government.

French v. Boner, 963 F.2d. at 892 (App. p. 9-10).

In the District Court's Opinion, which the Sixth Circuit affirmed, the District Court stated:

> The defendant in this case, the Metropolitan Government, has a plan for decennial reapportionment. There is no dispute that the defendant, unlike the defendants in Baker and Reynolds, follows this

> plan. Nor is there any dispute that the plan based on the 1990 federal decennial census is constitutional. Therefore, under Reynolds, there is no constitutional violation. Since the Equal Protection Clause does not require more, the defendant's motion for summary judgment must be granted.
>
> . . .
>
> The "reasonably conceived plan" of decennial reapportionment is, of itself, sufficient to guarantee the constitutionality of the councilmanic elections held August 1, 1991.

(D. 72, App, p. 22-24, 27).[4]

In effect, the District Court found and the Sixth Circuit affirmed that the mere adoption of a reapportionment plan within ten years since the last plan was adopted is constitutionally sufficient, despite the fact that the new plan will not take

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[4]. Although the "reasonably conceived plan" for reapportionment is in place, it was not the plan under which the present council was elected in 1991 for a four year term.

effect until 1995, some fifteen years after the 1980 census. This finding by the District Court and its affirmance by the Sixth Circuit is contrary to the holdings of Reynolds and its progeny up to and including Board of Estimate and Watkins.

This, of course, is in direct contradiction of the express holding in Watkins wherein the Court declared that those very considerations found compelling by the instant court in the case at bar were clearly outweighed by the overriding importance of the one-person, one-vote principle.

It must be emphasized that the 275.5% deviation between the largest and smallest councilmanic districts is one which occurred over the ten year period between 1980 and 1990. The new plan for

reapportionment corrects this imbalance based on figures from the 1990 census. Because population growth is not static, it is reasonable to assume that already some deviation is beginning to occur in the new district populations. Each day that goes by will, more probably than not, see an ever-growing deviation between the largest and smallest districts. By the time the new reapportionment plan is completed by an election halfway through the decade, the new districts will likely have begun to deviate in size. The citizens of Metro will have been governed under a plan based on 15 year old census figures. These citizens will have imposed upon them the substitution of an imbalanced reapportionment plan for an unconstitutionally malapportioned one. Rather than insuring that each citizen's

vote counts as much, insofar as it is practicable, as any other citizen's, the Metropolitan Government in this case proposes to perpetuate and guarantee the debasement and dilution of the weight of each person's vote.

The paramount factor supporting immediate implementation of the redistricting plan based on the 1990 census is the seriousness of the malapportionment. See, Flateau v. Anderson, 537 F.Supp. 257, 265 (S.D.N.Y. 1982)("The significance of the voters' interest in any given reapportionment case is primarily a function of the relative severity of the malapportionment."). As the Supreme Court noted in Board of Estimate of New York, it has never indicated that a deviation of 78% could ever be justified. Board of Estimate of

New York, supra, 103 L.Ed. 2d at 732 (emphasis added). As the deviation present in this case is greater than 78%, it follows that Metro cannot justify the August and September, 1991 elections based on the 1980 census figures.

Under the redistricting plan based on the 1990 census and approved on September 5, 1991, at least one of those districts, the Thirteenth, is without representation in the Council. This lack of representation is at least as serious a constitutional violation as the violation of the "one person, one vote" principle.

The Thirteenth District in the redistricting plan based on the 1980 census figures, under which the present council was elected, is completely different from the Thirteenth District of the plan based on the 1990 census figures

under which elections will not take place until 1995, unless this Court grants relief to the Plaintiffs. It is without a doubt that the citizens of the Thirteenth District have less a voice in the Council than those citizens who have representatives in the sitting Council. The denial of these citizens, among whom is the Plaintiff Charles French, of a voice in the Council until 1995 is a serious violation of their "one person, one vote" rights and greatly outweighs Metro's interest in a "reasonably conceived plan" for reapportionment. The only parties served by the rulings of the District Court and the Sixth Circuit are those politicians elected under a grievously malapportioned plan who will continue to serve until 1995. The persons who were wronged and whose rights have

been violated are the citizens who must suffer through four years of ill-represented government. As one court stated:

> . . . the [Supreme] Court dispelled any notion that a state's interest in "stability and continuity of organization of the legislative system," Reynolds v. Sims, 377 U.S. at 583, 84 S.Ct. at 1393, absolutely frees if from having to reapportion more than once in a ten year period. (Citation omitted).

Farnum v. Burns, 548 F.Supp. 769, 774 (D.R.I. 1982)

Unlike the court in Watkins neither the District Court, the Sixth Circuit, nor this Court has to fashion a valid redistricting plan. Such a plan has already been approved by the voters of Davidson County and is ready to be implemented. Accordingly it should be implemented as soon as possible to correct the 1991 councilmanic elections held on

the basis of 1980 census figures.

These factors, taken together, greatly outweigh any interest Metro might have in delaying the implementation of the redistricting plan based on the 1990 census until August, 1995. The equities in this cause weigh heavily in favor of Plaintiffs' argument for an immediate election.

CONCLUSION

Since Baker and Reynolds, this Court has continuously protected the inalienable right of each citizen to have their votes counted equally. The Sixth Circuit, the District Court and the Defendant have already recognized that the 1991

councilmanic elections took place under malapportioned districts, which is a violation of the "one person, one vote" mandate arising from the Fourteenth Amendment. Despite this recognition by the District Court and the Sixth Circuit, those courts have neglected to protect plaintiffs' inalienable rights while promoting lesser considerations of stability, continuity, and cost.

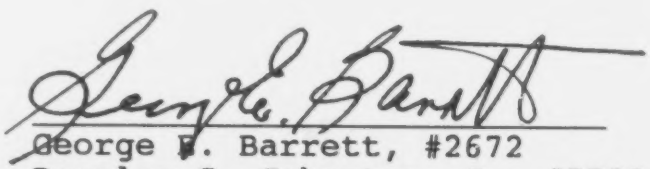
As the Court said in Wesberry v. Sanders, 376 U.S. 1, 17 - 18, 84 S.Ct. 526, 11 L.Ed.2d 481, 492 (1964):

> [o]ur Constitution leaves no room for classification of people in a way that unnecessarily abridges [the right of having a voice in the election of those who make the laws under which, as good citizens, we must live].

Accordingly, based on the foregoing and the record, Plaintiffs petition this Court for a Writ of Certiorari to consider this

matter and pray that this Court vacate the decisions of the District Court and the Sixth Circuit and remand this case to the District Court pursuant to Watkins v. Mabus, with instructions to conduct elections as soon as possible using the 1991 reapportionment plan.

RESPECTFULLY SUBMITTED,



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